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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

COBBLESTONE PRIVATE TRAVEL
MOROCCO,

Plaintiff,
v.

COBBLESTONE PRIVATE TRAVEL INC.,
Defendant.

Index No.: 18-cv-5246

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

Plaintiff Cobblestone Private Travel Morocco (“Cobblestone Morocco”), by its undersigned attorneys, submits this Complaint against defendant Cobblestone Private Travel, Inc. (“CPT”) and alleges as follows:

NATURE OF THE CASE

1. This Action arises from CPT’s breach of its five-year Exclusive Partnership Agreement with Cobblestone Morocco. CPT is a New York-based wholesale travel agency run by Michael Diamond (“Diamond”) that specializes in marketing and selling luxury Moroccan travel packages. Pursuant to the parties’ agreement, dated January 23, 2017 (the “Agreement” or Exclusive Partnership”), CPT granted Cobblestone Morocco—a Moroccan-based destination

management company run by Richard DeMayo (“DeMayo”)—the exclusive right for a five-year term to book and execute travel packages in Morocco for CPT’s clients.

2. The first year of the parties’ Exclusive Partnership was successful. Cobblestone Morocco’s on-the-ground service and broad range of high-end tourism experiences garnered positive reviews from clients. The Exclusive Partnership was on track to roughly double its revenues for 2018. However, at some point in late 2017 or early 2018, CPT — in flagrant breach of the Agreement and without notifying Cobblestone — began hiring another Moroccan company to service its clients. Upon information and belief, this company is not properly licensed by the Moroccan government, lacks proper insurance, and provides clients with risky or inferior service. CPT’s unilateral decision to breach the Agreement has severely damaged Cobblestone Morocco’s prospect for growth, as well as the “Cobblestone” name and reputation.

3. Although Cobblestone Morocco has repeatedly confronted CPT over its breaches of the Agreement, CPT has refused to abide by its contractual obligations and continues to hire other Moroccan companies to service its clients. CPT’s abandonment of the Exclusive Partnership has caused Cobblestone Morocco to suffer significant damages including, without limitation, the loss of all profits that Cobblestone Morocco would have earned from servicing CPT’s clients over the remainder of the five-year exclusive term.

PARTIES

4. Plaintiff Cobblestone Private Travel Morocco is a business entity organized under the laws of the Kingdom of Morocco and has its principal place of business in Marrakesh, Morocco.

5. Defendant Cobblestone Private Travel Inc. is a domestic business corporation organized under the laws of the state of New York. Upon information and belief, at all times

relevant to the facts of this case, CPT's principal place of business is located in Brooklyn, New York.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of Cobblestone Morocco's claims pursuant to 28 U.S.C. § 1332(a)(2) (diversity jurisdiction) on the grounds that (i) complete diversity exists as between Cobblestone Morocco, a foreign entity based in Marrakesh, Morocco, and CPT, a New York State corporation; and (ii) the amount in controversy exceeds USD \$75,000.

7. This Court has personal jurisdiction over CPT and venue is proper pursuant to 28 U.S.C. § 1391(b)(1)–(2) because, upon information and belief, (i) CPT's principal place of business is located in Brooklyn, New York; and (ii) a substantial part of the events and omissions giving rise to Cobblestone Morocco's claim occurred in Brooklyn, New York.

STATEMENT OF FACTS

I. Background

8. DeMayo, a U.S. citizen living in Morocco, has more than 16 years of experience working with clients in the Moroccan tourism industry. In the 1980s and 90s, DeMayo ran a successful retail company in New York that specialized in selling furniture and décor items that DeMayo found while travelling the world. In 2002, DeMayo went on a life-changing trip to Morocco and decided to permanently move there; he soon developed a niche business, providing private shopping and design services to design and decor professionals from the United States and other English-speaking countries.

9. In 2013, DeMayo began leading private shopping excursions and tours focused on art and design for clients of Heritage Private Travel Tours ("Heritage"), a U.S.-based luxury travel company where Diamond was the "Morocco specialist." Over the following three years,

Diamond and DeMayo worked together closely, and the relationship between Heritage and DeMayo proved to be successful.

II. The Exclusive Partnership Agreement

10. In October 2016, Diamond told DeMayo that he planned to leave Heritage and start his own travel agency. Diamond asked DeMayo if he would continue to work with him. DeMayo expressed interest in forming his own destination management company in Morocco that could service Diamond's clients.

11. In mid-November 2016, DeMayo flew to New York City to meet with Diamond to further discuss an exclusive partnership whereby the U.S.-based travel company that Diamond would form (CPT) would work exclusively with the destination management company that DeMayo would form in Morocco (Cobblestone Morocco) to provide high-end Moroccan travel packages. Both companies would share the name "Cobblestone" to market their exclusive partnership to the industry. DeMayo told Diamond that their partnership would have to be long-term and exclusive in order to justify the time and expense of setting up a Moroccan destination management company. Diamond agreed to this condition and he and DeMayo shook hands on the outline of an agreement. The following day, the pair met again with their families to celebrate the venture. Shortly thereafter, DeMayo and Diamond began drafting a contract to memorialize their agreement.

12. On or about January 23, 2017, CPT and Cobblestone Morocco executed the Exclusive Partnership Agreement that reflected their business plan. The Agreement created a "five (5) year exclusive partnership" pursuant to which "CPT will have responsibility for all U.S.A. based sales activity to target market ... and [Cobblestone Morocco] will have all responsibility for administrative, ground operations, and all delivery mechanisms for client services in Morocco." A true and correct copy of the Agreement is attached hereto as Exhibit A.

13. The Agreement further states that it is “automatically recurring, with the same terms and conditions, unless one or both parties request a review of such terms and conditions.” The Agreement also sets forth the Exclusive Partnership’s target market, as well as various marketing activity the parties agreed to undertake—*e.g.*, CPT would “apply for the PURE trade show” (an annual travel industry conference in Marrakesh).

14. Finally, the Agreement sets forth the Parties’ financial arrangement as follows:

- [Cobblestone Morocco] will be responsible for getting competitive contracted rates at hotels and suppliers as needed.
- [Cobblestone Morocco] will create a rate book of prices to CPT.
 - Mark up of hotel prices will be split between [Cobblestone Morocco] and CPT when commission is 20% or less.
 - Example: If a hotel gives a 15% commission from a rack rate. The price to CPT is net rate plus 7.5%. If commission is over 20%, the price to CPT will not exceed half of the commission percentage.
 - Services and special content to be marked up 10% over [Cobblestone Morocco] cost.

15. On January 25, 2017, Diamond returned the signed Agreement to DeMayo via email and acknowledged its validity, writing:

Signed agreement attached. You [DeMayo] summarized well and all makes sense. And the fabric of this agreement is trust and partnership. We have the same focus from day one. We are both dedicated to making this a success.

A true and correct copy of Diamond’s email is attached as Exhibit B.

16. CPT knew that the exclusive nature of the parties’ partnership was an essential term of the Agreement; but for CPT’s promise to refer all of its Moroccan travel business to the company, Cobblestone Morocco would not have entered into the Agreement.

17. The first step in advancing the Exclusive Partnership was for both parties to form their respective “Cobblestone” entities through which they would fulfill their obligations under the Agreement. Diamond formed CPT as a New York State corporation.

18. As Diamond was aware, it was significantly more time-consuming and expensive for DeMayo to form Cobblestone Morocco because of the complexities of Moroccan law. Under Moroccan Law, Cobblestone Morocco needed to register as a “domestic management company” in order to service CPT’s clients in Morocco—*e.g.*, to make domestic reservations on behalf of foreigners and to manage all aspects of a tourist’s trip and activities while in Morocco. As part of the licensing process, the Moroccan Ministry of Tourism requires that destination management companies hire seven employees, obtain insurance for their employees and guests, maintain certain financial reserves, and comply with health and safety regulations. Further, Cobblestone Morocco obtained additional insurance on behalf of itself and CPT to cover all aspects of client safety.

19. In reliance on the Agreement and CPT’s representations, Cobblestone Morocco expended significant time and money to obtain the necessary licenses and permits, as well as the required insurance. In further reliance on the Agreement and CPT’s representations, Cobblestone Morocco also purchased business equipment, rented and furnished offices, hired the legally-required staff of seven employees to service clients, and built-out relationships with local hotels and other tourism service providers in order to be able to service CPT’s clients. Cobblestone Morocco also created a “price book” for Moroccan hotels that included the various commission rates, which CPT approved. Cobblestone Morocco was equipped to plan end-to-end travel experiences for the Exclusive Partnership’s clients, including booking private guides and in-country transportation as well as luxury accommodations, and offering access to a wide variety of activities including multi-city private tours, unique cultural events, outdoor excursions, and local shopping venues.

20. In preparing to service CPT's clients, Cobblestone Morocco spent more than GBP £75,000 (appx. USD \$95,000) to establish itself and create what CPT later marketed to clients on its website as an "unparalleled in-country network" that would be available "on the ground and offer 24/7 support while [tourists are] in the country."

21. The Exclusive Partnership's first year was highly successful. After signing the Agreement, CPT began sending client files to Cobblestone Morocco, and Cobblestone Morocco began booking and executing their corresponding itineraries in Morocco.

22. Through the end of 2017, Cobblestone Morocco handled over USD \$930,000 in revenues, while receiving positive reviews from clients as well as industry accolades. For example, Travel expert Wendy Perrin listed CPT on her 2018 "WOW" list, referencing glowing reviews from clients that Cobblestone Morocco serviced. For example, one client raved, "We had a fantastic trip. From the moment we arrived and were met by the VIP service in Casablanca airport, everything went smoothly. Loved all the accommodations. . . . We had the 'A' team with guides. . . . I think Mohammed is the best guide I have ever had. . . . A fabulous trip full of great memories with my adult son!"

23. Given the Exclusive Partnership's performance in 2017, Cobblestone Morocco expected significant growth in the following year. Indeed, between January and June 2018, revenues were nearly USD \$850,000, and Cobblestone Morocco reasonably expected that year-end revenues would double those of 2017. At this growth rate, revenues were expected to reach at least \$2.5 million by 2019.

III. CPT Breaches, and Attempts to Repudiate, the Exclusive Partnership Agreement by Hiring Entourage to Service Its Clients in Morocco

24. Unbeknownst to Cobblestone Morocco, at some point in 2017 or early 2018, CPT—in breach of the Agreement—began hiring another travel service provider in Morocco,

which was not properly licensed, to service CPT's clients. Cobblestone Morocco first learned of these breaches, which are continuing, in March 2018.

25. Diamond himself first alerted Cobblestone Morocco to CPT's wrongdoing. On March 26, 2018, he wrote an email to Cobblestone Morocco stating that a client had been waiting for their scheduled pickup at the La Mamounia Hotel in Marrakesh for over an hour and asked that the situation be urgently addressed. Cobblestone Morocco, however, had no record of that particular client. When Cobblestone Morocco tried to follow up about the issue, Diamond backtracked and claimed that the situation had been a misunderstanding. At the time, DeMayo accepted Diamond's explanation. As DeMayo later learned, however, the truth was that CPT, in flagrant breach of the Agreement, had referred the client in question to Entourage Travel Morocco ("Entourage"), and then subsequently confused which company was responsible for servicing the client's itinerary. Worse, Entourage is apparently not licensed to provide these travel services: upon information and belief, the principal of Entourage has been sanctioned by Moroccan authorities and filed a sworn statement with local officials in which he agreed that he will no longer seek out or accept unlicensed tourism-related work.

26. Over the next several weeks, Cobblestone Morocco learned from its contacts within the Moroccan tourism industry of additional instances where CPT had breached the Agreement by engaging Entourage to service its clients.

27. In late April 2018, DeMayo confronted Diamond and demanded that CPT immediately cease breaching the parties' Agreement. In response, Diamond admitted that CPT was using Entourage to service its clients but downplayed the significance of the misconduct. Shortly thereafter, CPT stopped referring new client files to Cobblestone Morocco.

28. In early May 2018, the parties participated in a conference call to discuss their dispute and to try to find a resolution. DeMayo was joined on the call by the three other owners of Cobblestone Morocco; Diamond alone participated on behalf of CPT. During the call, Diamond again admitted that CPT was sending its client files to Entourage and refused to end the practice. He asserted that CPT no longer wanted to participate in the Exclusive Partnership, and proposed terms on which CPT and Cobblestone Morocco could end their relationship. DeMayo and his partners refused this unilateral attempt to terminate the Agreement and insisted that CPT resume using Cobblestone Morocco exclusively as its destination management company, as the parties had agreed. The call ended without any satisfactory resolution.

29. In June 2018, DeMayo made a final attempt to address the issue with Diamond. Diamond again refused to resume CPT's exclusive relationship with Cobblestone Morocco, suggested that the two companies should simply "go their own ways" and asserted for the first time that the Agreement was unenforceable. DeMayo rejected Diamond's proposal.

30. Since late April 2018, CPT has not referred any of its client files to Cobblestone Morocco, and instead continues to use other, unlicensed Moroccan service providers such as Entourage to service its clients. For example, on September 12, 2018, Diamond sent an email to Entourage—on which he mistakenly copied Cobblestone Morocco—asking Entourage to book twin rooms at a Moroccan hotel for CPT's clients. A true and correct copy of this email is attached as Exhibit C.

31. Additionally, in breach of the Agreement, CPT failed to market the Exclusive Partnership at this September's PURE Life Experiences trade show in Marrakech, Morocco—one of the biggest events in the Moroccan tourism industry, which brings together local service providers, high-end travel agents, and industry press for a five-day series of conferences and

networking events. This further damaged Cobblestone Morocco's prospects for the upcoming tourism season.

32. Accordingly, CPT has abandoned its obligations under the Agreement.

IV. CPT's Misconduct has Damaged Cobblestone Morocco

33. On information and belief, CPT has diverted at least 40 client files to other service providers in Morocco, worth at least USD \$400,000 to \$500,000 in revenues. Each instance where CPT hired another service provider in Morocco to service its clients constitutes a separate material breach of the Agreement.

34. Additionally, CPT's repeated refusal to honor the terms of the Agreement and Diamond's wrongful assertion that the Agreement is not enforceable represent an anticipatory breach of CPT's future obligations under the Agreement.

35. CPT's renunciation of the parties' five-year Exclusive Partnership has and will deprive Cobblestone Morocco of the profits that it reasonably expected to earn from servicing CPT's clients for the remainder of the Agreement's exclusive term.

36. Furthermore, by referring client files to service providers in Morocco that are not properly licensed and provide risky or inferior service, CPT has damaged the "Cobblestone" name, which harms Cobblestone Morocco's reputation in the local market and abroad.

37. Cobblestone Morocco estimates that CPT's breaches and wrongful abandonment of the Exclusive Partnership will cause Cobblestone Morocco to suffer at least USD \$850,000 in lost profits and expenses for the remainder of the exclusive term, in addition to reputational harm.

38. Despite CPT's ongoing misconduct, Cobblestone Morocco has continued to service all client files that it received from CPT in good faith. Upon information and belief,

client feedback regarding Cobblestone Morocco's work has continued to be positive and, but for CPT's misconduct, the business would have continued to grow significantly for the remainder of the exclusive term.

FIRST CAUSE OF ACTION
(Breach of Contract)

39. Cobblestone Morocco re-alleges each factual allegation contained in Paragraphs 1 through 38, inclusive, as if fully set forth here.

40. The Exclusive Partnership Agreement constitutes a valid, binding, and enforceable contract between CPT and Cobblestone Morocco.

41. The Agreement obligated CPT to market travel packages for Morocco to individuals in the United States and to use Cobblestone Morocco exclusively for all administrative, ground operations and delivery mechanisms for client services in Morocco for a period of five years beginning on January 23, 2017.

42. Since entering into the Agreement with CPT, Cobblestone Morocco has faithfully performed its obligations under the contract including, without limitation, servicing all client files referred from CPT.

43. CPT repeatedly breached the Agreement by failing to use Cobblestone Morocco exclusively for all administrative, ground operations and delivery mechanisms for client services in Morocco, and, instead, using other service providers in Morocco to service at least forty (40) client files. Each instance where CPT failed to use Cobblestone Morocco for all administrative, ground operations and delivery mechanisms for client services in Morocco constitutes a material breach of the Agreement.

44. CPT's failure to engage in good faith marketing activity at the September 2018 PURE trade show constitutes a separate breach of the Agreement and further damaged Cobblestone Morocco's prospects for the upcoming tourism season.

45. As a result of CPT's breaches, Cobblestone Morocco has suffered damages including, without limitation, lost profits that it would have earned for the remainder of the exclusive term but for CPT's breaches, as well as reputational damages. Such damages will be determined at trial, but are believed to be not less than \$850,000, plus prejudgment interest.

SECOND CAUSE OF ACTION
(Anticipatory Breach of Contract)

46. Cobblestone Morocco re-alleges each factual allegation contained in Paragraphs 1 through 45, inclusive, as if fully set forth here.

47. The Exclusive Partnership Agreement constitutes a valid, binding, and enforceable contract between CPT and Cobblestone Morocco.

48. The Agreement obligated CPT to market travel packages for Morocco to individuals in the United States and to use Cobblestone Morocco exclusively for all administrative, ground operations and delivery mechanisms for client services in Morocco for a period of five years beginning on January 23, 2017.

49. CPT repudiated the Agreement when Diamond (i) repeatedly admitted that CPT hired other service providers to handle administrative, ground operations and delivery mechanisms for client services in Morocco and refused to stop doing so in the future; and (ii) asserted that the Agreement was not enforceable.

50. Diamond's statements were made in his capacity as owner and principal of CPT, and represented a clear statement of CPT's intent to abandon its obligations under the Agreement.

51. As a result of CPT's abandonment of the Agreement, Cobblestone Morocco has been damaged in an amount to be determined at trial, but believed to be no less than \$850,000, plus prejudgment interest.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Cobblestone Private Travel Morocco respectfully requests that this Court enter judgment against Defendant Cobblestone Private Travel, Inc.:

- (a) For damages in an amount to be determined at trial, but believed to be not less than \$850,000.00;
- (b) Awarding Plaintiff its reasonable costs and attorneys' fees; and
- (c) Awarding Plaintiff such other and further relief as is deemed just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury in this action of all issues so triable.

Dated: September 18, 2018
New York, New York

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